

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

JAYSON DON BAILEY,

Plaintiff,

v.

CIVIL ACTION NO. 5:14-cv-29435

CAROLYN W. COLVIN,
Acting Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER


By *Standing Order* (Document 4) entered on December 5, 2014, this action was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). On December 4, 2015, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 17) wherein it is recommended that this Court grant the Plaintiff's request for judgment on the pleadings (Document 12) insofar as it requests remand of the Commissioner's decision; deny the Defendant's request to affirm the decision of the Commissioner (Document 15); reverse the final decision of the Commission; remand this matter pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings consistent with the *Proposed Findings and Recommendation*; and dismiss this matter from the Court's docket.

Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by December 21, 2015, and none were timely filed. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *see also Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983) (holding that districts courts may adopt proposed findings and recommendations without explanation in the absence of objections).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*. The Court **ORDERS** that the Plaintiff's request for judgment on the pleadings (Document 12) be **GRANTED** insofar as it requests remand of the Commissioner's decision; the Defendant's request to affirm the decision of the Commissioner (Document 15) be **DENIED**; the final decision of the Commission be **REVERSED**; this matter be **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings consistent with the *Proposed Findings and Recommendation*; and this matter be **DISMISSED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this *Memorandum Opinion and Order* to Magistrate Judge Eifert, counsel of record, and any unrepresented party.

ENTER: January 4, 2016


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA